

REMARKS:

Claims 1-7, 13-14, 21-22, 26-28, 34-35 and 41-123 remain in the instant application. Claims 1, 7, 21, 26, 28 and 41-45 have been amended, claims 8-12, 15-20, 23-25, 29-33 and 36-40 have been cancelled and new claims 46-123 have been added.

Reconsideration is requested of the rejection of claims 1-19, 21-24, 26-39 and 41-45 as being allegedly anticipated by U.S. Patent 5,920,911 to Cushman or as being rendered obvious over the Cushman patent. It will be appreciated that all of the remaining rejected claims have now been rewritten to a scope commensurate with allowable claims 20, 25, and 40. Thus, the independent claims 1, 7, and 28 have all been amended to incorporate the contents of claims 20, 25 and 40 respectively. Accordingly, independent claims 1, 7 and 28 along with the claims which depend therefrom should now be allowable to Applicants.

In addition, the remaining rejected independent claims, namely independent claims 43, 44 and 45 should also be allowable as all of these claims include the subject matter cited in allowable claims 20, 25 and 40. Given that the allowable subject matter in claims 20, 25 and 40 are found in independent claims 43-45, it is submitted that all of these three claims should also be allowable to Applicants.

Given the above-discussed amendments and/or claim cancellations, it is submitted that prior art rejections raised by the Examiner in the Office Action have now been rendered moot.

As discussed with the Examiner during the interview conducted on November 4, 2004, the Cushman reference does not teach, disclose or in any way suggest Applicants' invention as originally claimed nor as set forth in newly added claims 46-123. The Cushman reference describes a standard "hood", also known as an earcup, which is shown at item 10. In addition, Cushman describes a conventional "abutment ring" as constituted by the items 11, 12 and 14 (see Figures 1, 4 and 6). There is absolutely no suggestion, or disclosure in the Cushman reference that the "hood" 10 is comprised of two mutually contiguous portions made from plastics of differing properties. To the contrary, Cushman states at column 7, beginning line 50, that the earcup or hood 10 is made from a single resin (polypropylene) and that the seal or abutment rings 10, 12 and 14 are made from a conventional foam material. In contrast to Cushman, Applicants'

invention relates to a hood (such as hood 10 in Cushman) where such hood is comprised of two mutually contiguous portions made from plastics of different properties. Clearly, the conventional hood in Cushman which is made from a single plastic resin cannot and does not teach the concept of making such hood from two mutually contiguous portions of differing properties. The Examiner's rejection is based on defining the total hearing protective device comprised of hood 10 and abutment rings 11, 12 and 14 as constituting Applicants' "hood". However, such abutment rings are not a part of the hood; and Applicants' invention is directed to the hood, not the abutment ring portion of the hearing protective device. Moreover, there is absolutely no teaching or suggestion anywhere in Cushman that the hood 10 be made from a method including injection molding having two plastic materials of differing properties.

With the foregoing in mind, it would be appreciated that two new sets of claims are submitted herein. The first set of claims include claims 46-84. These claims include three independent claims, namely claims 46, 57 and 71 which recite a hearing protector, a method for making a hearing protector and the hearing protector made therefrom wherein the hearing protector comprises both a hood and an abutment ring and wherein the hood comprises at least two mutually contiguous portions which comprise plastic materials with different properties in at least one respect. These claims clearly patentably define over Cushman since there is no teaching or suggestion in Cushman that the hood 10 be comprised of such mutually contiguous portions. It will be appreciated that the abutment ring is positively recited in these claims and therefore the Examiner cannot now broadly read Cushman onto the claims.

In addition, new claims 85-123 include three independent claims, namely claims 85, 96 and 110, all of which recite a hood, a method of making a hood and the hood made therefrom wherein the hood consists essentially of at least two mutually contiguous portions which comprise plastic materials with different properties in at least one respect. By using the phrase "consists essentially of", these claims positively preclude the Examiner from reading the combination of the hood 10 and abutment rings of Cushman 11, 12 and 14 as a single piece so as to read on Applicants' claims. In other words, the phrase "consisting essentially of" precludes the abutment rings 11 in Cushman from

being included in the recitation for the "hood". It will be appreciated that unlike claims 46-84, new claims 85-123 do not include the abutment ring as an element thereof.

Based on the foregoing remarks, it is submitted that all of the claims in this case should now be in condition for allowance.

Applicants wish to thank the Examiner for his valuable comments during the interview and the Examiner is requested to contact the undersigned if any further questions or comments are raised by this amendment and remarks.

Respectfully submitted,

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